



UNITED STATES PATENT AND TRADEMARK OFFICE

16 JUL 2008

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ERICSSON INC.
6300 LEGACY DRIVE
M/S EVR 1-C-11
PLANO, TX 75024

In re Application of EIKENBROEK	:	
U.S. Application No.: 10/550,568	:	
PCT Application No.: PCT/SE2004/000369	:	
Int. Filing Date: 12 March 2004	:	DECISION
Priority Date Claimed: 03 April 2003	:	
Attorney Docket No.: P16277-US1	:	
For: METHOD AND SYSTEM OF JITTER	:	
COMPENSATION	:	

This is in response to applicant's "Petition to Withdraw Holding of Abandonment" filed 17 June 2008, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 12 March 2004, applicant filed international application PCT/SE2004/000369, which claimed priority of an earlier Sweden application filed 03 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 October 2004. The thirty-month period for paying the basic national fee in the United States expired on 03 October 2005.

On 27 September 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 22 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905)¹, which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 22 May 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

¹ Copy attached.

On 17 June 2008, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The petition states that the Notification of Missing Requirements was never received. The petition further alleges that the Notification of Missing Requirements was never issued based on the fact that the Notification of Missing Requirements does not appear in the Patent Application Information Retrieval (PAIR) service of the USPTO. However, a review of USPTO electronic records indicates that the Notification of Missing Requirements was mailed on 22 May 2006. A corresponding entry in the "Transaction History" should appear in applicant's private PAIR records. In any event, the fact that a document does not appear in the image file wrapper is not conclusive evidence that the document was never issued or mailed and does not discount the possibility that the document was inadvertently not scanned into the image file wrapper.

MPEP 711.03(c), Section I. A., "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action" states in relevant part,

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

In the present case, the petition includes a statement from the practitioner that the correspondence was not received. However, a statement that a search of the practitioner's file records revealed that the correspondence was not received has not been provided. Furthermore, the petition does not include a statement from the practitioner describing the docketing system of the practitioner's firm and establishing that the system is sufficiently reliable. Additionally, the petition does not include a copy of the master docket record for the practitioner's firm, listing all

replies docketed for the due date for reply to the Notification of Missing Requirements. Such docket record must indicate that no response to a Notification of Missing Requirements was due on 22 July 2006 for the present application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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PCT Legal Office

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/550,568	Johannes Wilhelmus Theodorus Eikenbroek	P16277-US1

INTERNATIONAL APPLICATION NO.

PCT/SE04/00369

27045
 ERICSSON INC.
 6300 LEGACY DRIVE
 M/S EVR C11
 PLANO, TX 75024

I.A. FILING DATE	PRIORITY DATE
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03/12/2004

04/03/2003

CONFIRMATION NO. 4498

371 FORMALITIES LETTER



OC000000018894506

Date Mailed: 05/22/2006

NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 09/27/2005
- Copy of the International Search Report filed on 09/27/2005
- Preliminary Amendments filed on 09/27/2005
- Information Disclosure Statements filed on 09/27/2005
- Request for Immediate Examination filed on 09/27/2005
- U.S. Basic National Fees filed on 09/27/2005
- Priority Documents filed on 09/27/2005
- Specification filed on 09/27/2005
- Claims filed on 09/27/2005
- Abstracts filed on 09/27/2005
- Drawings filed on 09/27/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

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U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/550,568	PCT/SE04/00369	P16277-US1